

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
Certification to Conduct Gambling)
Activities of:)
)
Robert E. Brooks)
Oak Harbor, Washington,)
)
Class III Employee.)
_____)

NO. CR 2013-02055

**NOTICE OF ADMINISTRATIVE
CHARGES, AND OPPORTUNITY FOR
AN ADMINISTRATIVE HEARING**

I.

The Washington State Gambling Commission issued Robert E. Brooks certification¹ number 69-35156, authorizing Class III Employee activity.

The Commission issued this certification, which expires on April 21, 2014, subject to the certified employee's compliance with state gambling laws and Commission rules.

II.

David Trujillo, Director of the Washington State Gambling Commission, charges the Class III Employee with violating the Swinomish Indian Tribal Community/State Compact, Washington State Gambling Act, 9.46 RCW, and WAC Title 230.

SUMMARY:

The Swinomish Gaming Commission revoked Robert Brooks' Tribal gaming license after determining he violated policies and procedures by deliberately concealing and taking a \$100 tip for himself, instead of turning the tip into the designated box of pooled tips. Mr. Brooks is therefore unqualified to hold a state certification.

FACTS:

1) Robert Brooks was a Class III Employee working as a keno employee at the Swinomish Casino until his manager terminated him on October 14, 2013. Mr. Brooks has not worked as a Class III or Card Room Employee since then.

2) The Swinomish Gaming Commission notified a State Gambling Commission Special Agent (agent) on October 17, 2013, about Mr. Brooks' termination. When the agent contacted the

¹The Gambling Commission issues Class III certifications to employees working at Tribal casinos. The certifications are similar to Card Room Employee (CRE) licenses issued to persons working at commercial house-banked card rooms. Holders of Class III certifications may convert their certifications to CRE licenses by submitting a transfer form and fees to Gambling Commission licensing staff.

Swinomish Tribal Gaming Agency (TGA), he was told Mr. Brooks was terminated for failing to place a \$100 tip in the tip pool.

3) The agent reviewed the TGA's investigative records, including an incident report, written statements, casino policy about tip pooling and distribution, a surveillance report and video.

4) Mr. Brooks acknowledged he received a \$100 tip from patron Milagros Encarnacion, who was an off duty keno employee. On October 5, 2013, Ms. Encarnacion told Mr. Brooks' keno co-worker, Alma Alejo, about giving Mr. Brooks a \$100 bill to tip everyone working Saturday night (10/05/13). When Ms. Alejo found out about the tip (the employees are required by casino policy to pool their tips), she told Mr. Brooks she did not see the tip included in the "toke" report. Ms. Alejo wrote a statement that Mr. Brooks looked surprised. He said he lost the money by accidentally giving it to a guest, and could not remember the guest's name.

5) When Teresa Hendrix, keno Manager, heard about Mr. Brooks not reporting a \$100 tip, she had surveillance staff review video, and they reported Mr. Brooks did not turn the tip into the keno tip box. When Mr. Brooks reported for work on October 7, 2013, Ms. Hendrix asked Mr. Brooks about the unreported tip. Mr. Brooks said the patron had given him \$100 and said the tip was just for him. Mr. Brooks felt it was just for him so he took the \$100 home. Ms. Hendrix asked Mr. Brooks about the procedure for tips. Mr. Brooks said tips are supposed to go to the keno counter and placed in the tip box. Ms. Hendrix then terminated Mr. Brooks.

6) The agent later received a copy, dated November 26, 2013, of the Swinomish Gaming Commission's Notice of Gaming License Revocation to Mr. Brooks.

7) As of January 10, 2014, Mr. Brooks was not working as a card room employee, nor linked to any other authorized gaming operator.

VIOLATIONS:

1) Swinomish Indian Tribal Community/State Compact

V.C. Grounds for Revocation, Suspension, or Denial of State Certification.

The State Gaming Agency may revoke, suspend or deny a State certification based on the standards established in RCW 9.46.075. In general, certification may be denied if the applicant: (The following subsections apply.)

(1) Is determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods and activities in the conduct of the gaming activities permitted pursuant to this Compact or has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of a Tribal/State Compact.

(3) Has had a tribal gaming license revoked or denied during the twelve (12) months prior to the date of receipt of the application; is currently on probation; or has demonstrated a willful disregard for compliance with a gaming regulatory authority in any jurisdiction, including

offenses that could subject the individual or entity to suspension, revocation or forfeiture of a gaming license.

2) RCW 9.46.075 Denial, suspension, or revocation of certification, application, or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein: (The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

3) WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, certified employee, or anyone holding a substantial interest in the applicant's or certified employee's business or organization: (The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities.

4) RCW 9.46.153(1) Applicants and licensees-Responsibilities and duties

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

Mr. Brooks has failed to establish clearly and convincingly that he is qualified for certification, as required by RCW 9.46.153(1), based on the revocation of his license by the Swinomish Gaming Commission, and his failure to follow tip procedures at the Swinomish Casino. Grounds, therefore, exist to revoke Mr. Brooks' certification based on the Swinomish Indian Tribal Community/State Compact, RCW 9.46.075(1), (8), and WAC 230-03-085(1) and (8).

III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

The certified employee will have the opportunity to have a hearing on the alleged violations. To have a hearing or discuss settlement options, the enclosed request for hearing must be completed and returned to the Gambling Commission within 23 days from the mailing of this notice.

Based on RCW 34.05.440, failure to return a request for hearing will cause the entry of a default order REVOKING your certification.

IV.

I have read this Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding, know the contents, believe it to be true, and have executed this Notice in my capacity as Director of the Washington State Gambling Commission.

January 10, 2014
Dated

David Trujillo
DAVID TRUJILLO, DIRECTOR

STATE OF WASHINGTON)
COUNTY OF THURSTON)

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, property addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 13 day of January, 2014

Maura Pretell